

statements required may be transmitted in writing or electronically.”.

Page 80, line 23, insert “(10 percentage points, if the dwelling is personal property and the transaction is for less than \$50,000)” after “8 percentage points”.

Page 81, beginning on line 19, strike “(8 percent if the dwelling is personal property)”.

Page 100, line 6, strike “tangible net benefit” and insert “net tangible benefit (as determined in accordance with regulations prescribed under section 129B(b))”.

Page 100, line 10, after the period, insert closing quotation marks and a second period.

Page 100, strike line 11 and all that follows through line 14.

Page 102, line 23, insert “at the end of the 6-month period beginning” before “on the date of”.

Page 102, beginning on line 25, strike “on or after the date” and insert “after the end of such period”.

The CHAIRMAN. Pursuant to House Resolution 825, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, first, this bill makes some substantive changes, including one of the things we came across was the problem of people who were renting who lost their right to live there when there was a foreclosure.

We have compromised in this. I have had some conversations; I will have some further ones with the gentleman from Colorado. But we do try to preserve some protection for the renters in the bill. As passed by committee, we had 12 months. This reduces it some to 6 months as the maximum. We will talk more about it.

Beyond that, there are two things that the manager's amendment clarifies, and I have found from some on the consumer side two objections in this bill, and we deal with these in the manager's amendment and we will deal with them further. One is the issue of preemption.

I think a certain amount of preemption is essential if we are going to have a secondary market, but it is possible to read the language previously as preempting more than we meant to. What this amendment does is to make very clear that, no matter what the issue is, if the problem was based on fraud or misrepresentation, deception, or false advertising, there is no preemption. The ability of people to go after anything that was based on misrepresentation or fraud is fully preserved, whether or not it affected their ability to pay.

Secondly, we have—and I am pleased to note that La Raza and the NAACP support this bill—we included at the insistence of the gentleman from North Carolina and the gentleman from California specific language about civil rights violations. No civil rights violation that a State may have would be preempted.

So we have narrowed the preemption. We have made it clear it does not preempt anything growing out of fraud.

The second issue that has led to some concern, and I am about to yield to my friend from North Carolina (Mr. MILLER) has to do with compensation. It was our intention to say that no one who was originating a loan should be given an incentive to put the consumer in a loan that would charge that consumer more than he or she could otherwise get, and we dealt with that.

The question then came about the way in which brokers are compensated, and we tried to provide two things: One, an absolute prohibition on any incentive to charge people more, but, two, not an interference with the way in which people chose to make those payments.

We thought we had the language clear. Some people think it isn't clear enough. One of the things we will do is to make that clearer.

And I would yield on this point to the gentleman from North Carolina.

Mr. MILLER of North Carolina. I thank the gentleman.

I would now like to engage in a colloquy with Mr. FRANK concerning this. And, Mr. Chairman, both Mr. FRANK and I would deeply appreciate a slow gavel on this particular point.

Mr. FRANK, please direct your attention to the language at the bottom of page 5 of the manager's amendment, clarifying the prohibition against payments to loan originators that vary with the terms of the subprime mortgage, which, as Mr. MURPHY of Connecticut has already pointed out, is an important antisteering provision. The abuse that the prohibition addresses is the payment by lenders to originators, most often brokers, known as a yield spread premium.

Under widespread practice now, lenders pay brokers an additional percentage point in a yield spread premium for every additional half point in interest on the mortgage above the rate that the borrower qualified for. Although borrowers sign a piece of paper agreeing to the payment by the lender, the broker hands the borrower the paper and tells the borrower what the borrower is signing, and most borrowers never realize that the broker makes more money the more that the borrower pays for the mortgage.

I agree with Mr. MURPHY of Connecticut, that is a kickback. It is not a legitimate business practice. It needs to change.

Mr. FRANK, as I understand it, the clarifying language in the new subparagraph does not simply permit what the previous subparagraph forbids, but it is directed to limited circumstances and does not allow any additional total compensation for an originator. Just as a buyer may pay discount points at closing to buy down the interest rate over the life of the loan, subparagraph (B) allows a consumer to pay more in interest over the life of the loan in return for lower costs and fees at closing.

Is that correct?

Mr. FRANK of Massachusetts. Yes. That is absolutely what I believe the

language says, and it is certainly our intent.

Mr. MILLER of North Carolina. And is it also correct that any payment by the lender to the broker, or to use the language of the bill, any incentive compensation paid by any person to any originator, based on a higher interest rate, is still forbidden?

Mr. FRANK of Massachusetts. Yes. I would say, and let me just read the language at the bottom of page 4 of the manager's amendment. Those payments “do not vary based on the terms of the loan or the consumer's decision about whether to finance.”

So we have tried to make it very explicit: Flexibility in method does not in any way reduce the prohibitions that have been stated against an incentive to charge more. And if it is necessary for us to say that again more clearly, as some people may think it is, we will find new ways to say it.

Mr. MILLER of North Carolina. I am glad that Mr. FRANK earlier embraced redundancy as a virtue, but I want to continue even though it may be redundant.

The CHAIRMAN. The gentleman's time has expired.

Mr. FRANK of Massachusetts. Will the gentleman yield me 15 seconds out of his time?

The CHAIRMAN. The gentleman from Alabama has not yet been recognized.

Does the gentleman rise in opposition to the bill?

Mr. BACHUS. Mr. Chairman, I claim time in opposition, although I am not opposed to the bill.

The CHAIRMAN. Without objection, the gentleman from Alabama is recognized for 5 minutes.

There was no objection.

Mr. BACHUS. I yield 15 seconds to the chairman of the committee.

Mr. MILLER of North Carolina. So a mortgage originator under this subparagraph, the one we were speaking of a moment ago, will get paid exactly the same in total compensation, including both the compensation paid by the borrower and the compensation paid by the lender, whether the interest rate is 6 or 8 or 10. Is that right?

Mr. FRANK of Massachusetts. Yes. And also, the total cost of the loan has to be the same.

Mr. MILLER of North Carolina. And so any compensation paid by the lender will be backed out dollar for dollar from what the borrower had agreed to pay; is that correct?

Mr. FRANK of Massachusetts. Yes, yes, yes. I feel like I am in Ulysses here.

Mr. MILLER of North Carolina. I thank the gentleman.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. I am grateful to my friend the ranking member and to the chairman, and I do oppose the manager's amendment and the bill. And I don't think there is any difference of